

**SACRAMENTO POLICE DEPARTMENT
ADMINISTRATIVE PENALTY APPEAL HEARING
RECORD OF DECISION**

IN THE MATTER OF:

SPD REPORT #: 17-329962

OWNER/APPELLANT: Mimi Boonmee Koh/Sam Seng Koh

VIOLATION ADDRESS: 3521 Cypress Street APN: 251-0152-029-0000

SACRAMENTO CITY CODE SECTION(S): 8.132.040

PROPOSED FEE OR PENALTY: Administrative Penalty \$83,500

HEARING EXAMINER: Richard Shafer

HEARING DATE: February 28, 2018

This matter was heard at a noticed public hearing. The following witnesses submitted a written explanation, appeared and/or testified at the hearing on behalf of either the City or the Appellant as noted below. Any written materials submitted with the protest or at the hearing were reviewed by the Hearing Examiner and are on file in the offices of the City of Sacramento.

City Staff: Officer Brian Webb – Sacramento Police Department

Appellants: Mimi & Sam Koh – Property Owners

TESTIMONY SUMMARY

City Staff:

Sacramento Police Department Officer Brian Webb testified the Sacramento Police Department received information regarding a possible indoor cannabis cultivation operation occurring at 3521 Cypress Street, owned by Mimi Boonmee Koh & Sam Seng Koh.

On November 16, 2017, the City executed a warrant on the property and observed 173 cannabis plants. At the time of the warrant service, Officers located a subject by the name of Jeff Guerrier inside the residence. Inside the residence, Officer Webb observed marijuana (cannabis) grow lights, fans, filtration units, ballasts, blowers and cannabis (marijuana) plants. Three of the rooms located inside the residence had been converted into marijuana cultivation rooms. The garage had been converted into marijuana cultivation rooms. Photos were taken of the marijuana growing facility.

On scene, there were approximately 6 City personnel and 4 City vehicles. Personnel were on scene for approximately 1.5 hours, from the time the property was entered to the time the property was secured, boarded and declared as a dangerous building.

An administrative penalty pursuant to SCC 8.132.050 (E)(1) in the amount of \$83,500, \$500 per plant over six plants, was issued to the owner of the property for a violation of SCC 8.132.040(B). The administrative citation was posted on the front of the residence. The City Attorney also mailed a copy of the administrative penalty to the property owner. The administrative penalty in this case is appropriate due to the potential high proceeds to be gained from the cultivation of illegal cannabis.

Appellant:

Property owns Sam & Mimi Koh testified they purchased the property in 2010 and had rented it out to numerous families prior to renting to Mr. Colton in October of 2015. Ms. Koh stated they verified his employment and credit, and met with him, his wife and child. Ms. Koh stated they presented themselves very well and they thought the property was in good hands. Mr. Koh is a contractor and Mr. Colton worked as a carpenter, so they trusted that he and his family were legitimate renters.

Mr. Koh stated he drove by the property on a regular basis and it always looked clean and the yard maintained. Mr. Koh stated the tenant always paid rent on time and never answered the door when he came by so they never entered the house. Mrs. Koh stated her brother as well as the neighbors were keeping an eye on the property for them as well, and they were not notified of any issues and had no reason to suspect anything was going on.

Mr. Koh testified they never received any of the notices. He stated they came to town at the end of November to collect the rent because the tenant was behind on rent for two months and that is when they found the posting on the property. Mr. Koh stated they contacted the building inspector who gave them access to the house. Mr. Koh stated once they were able to get inside there was nothing in there, it was just a destroyed house with mold everywhere.

Mr. Koh testified they had completely remodeled the house prior to the tenant moving in and sold the house \$70,000 below market value because they did not have the resources to fix the house. Ms. Koh stated they own multiple properties and only had one other issue with marijuana being grown in the garage of another property.

FINDINGS OF FACT:

After examining the evidence submitted and arguments offered by City staff, the appellant and witness, if any; the owner's efforts, or lack thereof, to comply with the City Code; the staff time and costs incurred in investigating the violation; the extent, if any, to which the fine or penalty would impose a substantial economic hardship; the seriousness of the violation; the Hearing Examiner hereby makes the following findings:

- A. The Administrative Penalty was properly issued and served.
- B. The Appellants properly investigated the tenants before renting the house to them.
- C. The Appellants monitored the property by driving by on a regular basis and having relatives and neighbors watch the house.
- D. The Appellants incurred significant losses as a result of the tenant's illegal conversion of the house.

DECISION:

The Administrative Penalty issued on November 16, 2017, in the amount of \$83,500 shall be reduced to \$0.

IT IS SO ORDERED

Dated: March 27, 2018



Richard Shafer
Hearing Examiner

PAYMENT: ☐ Applicable ☒ Not Applicable

Make check payable to: City of Sacramento

Mail to: Code Compliance Division Attn: Hearing and Appeals 300 Richards Blvd., 3rd Floor Sacramento, CA 95811

APPEAL

If you desire to seek judicial review of the Hearing Examiner's decision, you must file a petition for judicial review with the Sacramento County Superior Court no later than the 90th day following the date of this decision. (*California Code of Civil Procedures Section 1094.5 & 1094.6*)

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Violation Address: 3521 Cypress Street